

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

EVANS J. BOYD, III,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

Case No. C05-5394RJB

ORDER DISMISSING
CASE

This matter comes before the court on the Report and Recommendation of the Magistrate Judge. Dkt. 23. The court has reviewed the Report and Recommendation and the remainder of the file herein.

On June 9, 2005, plaintiff, who is proceeding *pro se*, filed this civil case against the Department of Corrections, alleging that his civil rights were violated when prison guards broke his wrist when he was separated from fighting with another inmate. Dkt. 1. On February 27, 2006, defendants filed a motion for summary judgment (Dkt. 17). On March 24, 2006, U.S. Magistrate Judge J. Kelley Arnold issued an order granting plaintiff an extension of time until March 22, 2006 to file a response to defendants' motion for summary judgment. Dkt. 21. On March 30, 2006, the March 24, 2006 order of the Magistrate Judge was returned by the United States Post Office as undeliverable. Dkt. 22. Plaintiff did not respond to defendants' motion for summary judgment, and on March 25, 2006, Judge Arnold issued a Report and Recommendation, recommending that the court grant defendants' motion for summary judgment and dismiss the case. Dkt. 23. On June 1, 2006, the Report and Recommendation, sent to plaintiff's last known address, was returned by the United States Post Office as undeliverable. Dkt. 24.

1 Under Local Rule CR 41(b)(2):

2 A party proceeding *pro se* shall keep the court and opposing parties advised as to his
3 current address. If mail directed to a *pro se* plaintiff by the clerk is returned by the Post
4 Office, and if such plaintiff fails to notify the court and opposing parties within 60 days
thereafter of his current address, the court may dismiss the action without prejudice for
failure to prosecute.

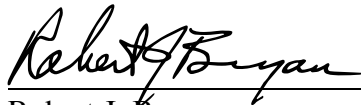
5 Plaintiff is proceeding *pro se* in this matter. Correspondence directed from the Clerk's office on
6 two occasions was returned by the Post Office as undeliverable. More than sixty days have passed since
7 the Clerk's office received the first returned mail, during which time plaintiff did not advise the court of his
8 current address. Pursuant to Local Rule CR 41(b)(2), this action should be dismissed without prejudice for
9 failure to prosecute.

10 Therefore, it is hereby

11 **ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule
12 CR 41(b)(2). The Report and Recommendation is moot.

13 The Clerk is directed to send uncertified copies of this Order to all counsel of record and to any
14 party appearing *pro se* at said party's last known address.

15 DATED this 16th day of June, 2006.

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17 Robert J. Bryan
18 United States District Judge
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